



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Kevin Ellis, DC

Respondent Name

Insurance Company of the State of Pennsylvania

MFDR Tracking Number

M4-14-1899-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

February 24, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "1/17/2014...This procedure was reduced by 50% for code '3 – Due to multiple services, this procedure was reduced 50 percent of the fee schedule rate'.

There is tiered reimbursement in which the second examination is decreased by 50% but the MMI/IR examinations are not subject to tiered reimbursement. Please see 134.204 of the regulations.

2/20/14...The DWC-32 for the examination that took place on 12/3/13 requested that I assess MMI/IR and also return to work. The return to work should have been billed and paid at \$500. It was reduced to \$250. I am guessing that the confusion was that on a previous examination that took place in August of 2013 I was also asked to assess return to work and since this was the second examination it mistakenly assumed that it should be reduced to 50%.

The specific rule as outline below states that when multiple exams take place under the 'same division order' then the second exam is reduced. That was not the case as the two examination dates were under different division orders.

134.204 (i)(2) When multiple examinations under the same specific Division order are performed concurrently under paragraph (1)(C)-(F) of this subsection: (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in subsection (k) of this section;

Therefore the 99456-W8-RE on 12/3/2013 should have been paid at \$500 and not \$250."

Amount in Dispute: \$250.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The Division placed a copy of the Medical Fee Dispute Resolution request in the insurance carrier's Austin representative box, which was acknowledged received on March 4, 2014. Per 28 Texas Administrative Code §133.307(d)(1), "The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile within 14 calendar days after the date the respondent received the copy of the requestor's dispute. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information." The insurance carrier did not submit any response for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.

Response Submitted by: NA

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 3, 2013	Designated Doctor's Examination to Address the Injured Employee's Ability to Return to Work	\$250.00	\$250.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.204 (i)(2) explains the tiered payment structure of multiple examinations that address any question for Designated Doctors other than Maximum Medical Improvement or Impairment Rating.
- The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 1 – (59) Processed based on multiple or concurrent procedure rules.
 - 1 – No Reduction Available. (VRNA)
 - 2 – Due to multiple services, this procedure was reduced 50 percent of the fee schedule rate. (M465)

Issues

- Is the examination to address the injured employee's ability to return to work subject to a 50% reduction under the multiple procedure rules?

Findings

- Per 28 Texas Administrative Code §134.204 (i)(2), "When multiple examinations **under the same specific Division order are performed concurrently under paragraph (1)(C) - (F) of this subsection:** (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in subsection (k) of this section; (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in subsection (k) of this section; and (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in subsection (k) of this section." Paragraph (1) (C)-(F) of this section include, "(C)Extent of the employee's compensable injury...(D) Whether the injured employee's disability is a direct result of the work-related injury...(E) Ability of the employee to return to work...(F) Issues similar to those described in subparagraphs (A) - (E)..."

Review of the documentation indicates that the order for this exam included only Maximum Medical Improvement, Impairment Rating, and the ability of the employee to return to work. Therefore, the examination to address the injured employee's ability to return to work is not subject to a 50% reduction under the multiple procedure rules.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$250.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$250.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	<u>Laurie Garnes</u> Medical Fee Dispute Resolution Officer	<u>December 12, 2014</u> Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.